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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 LAWRENCE ROBINSON,

15 Defendant.
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Case No. 1:97-cr-05129-JLT

AMENDED ORDER GRANTING REQUEST
FOR RECONSIDERATION AND
VACATING AND DISMISSING
ROBINSON'S CONVICTIONS ON COUNTS
EIGHT AND NINE¹

(Doc. 450)

17 Lawrence Robinson requests that the Court reconsider its prior order denying his motion
18 for relief under 28 U.S.C. § 2255 due to the recent Supreme Court decision in *United States v.*
19 *Taylor*, 142 S. Ct. 2015 (2022). The government does not oppose Robinson's request and agrees
20 that Robinson should be released immediately. (Doc. 457.) For the reasons explained below,
21 Robinson's motion is **GRANTED**.

22 Robinson is currently serving: a term of life imprisonment for causing a death with a
23 firearm during a § 924(c) violation in violation of 18 U.S.C. § 924(j)(1) (Count Nine); a
24 concurrent 240 month term for attempted Hobbs Act robbery in violation of 18 U.S.C. § 1951(a)
25 (Count Seven); and 60 months, consecutive to the other two counts, for carrying a firearm during
26 a crime of violence in violation of 18 U.S.C. § 924(c)(1) (Count Eight).

27 Robinson previously brought a 28 U.S.C. § 2255 motion arguing that his conviction for
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¹ This Order corrects an administrative error regarding the value of the special assessment due.

1 attempted Hobbs Act robbery was not a “crime of violence” for purposes of the 18 U.S.C.
 2 § 924(c)(1) count, thereby also invalidating the § 924(j)(1) count. The Court denied this motion
 3 on June 29, 2021. (Doc. 436.) Robinson timely requested reconsideration of that order and
 4 moved to stay proceedings in light of then-pending Supreme Court litigation in *Taylor*. (Doc.
 5 437.) The Court granted the stay request. (Doc. 441.) Subsequently, the Supreme Court held in
 6 *Taylor* that attempted Hobbs Act Robbery is not a “crime of violence” as defined in 18 U.S.C. §
 7 924(c)(3)(A).

8 A motion for reconsideration under Federal Rule of Civil Procedure 59(e) may be granted
 9 where, as here, there is an intervening change in the controlling law. *McDowell v. Calderon*, 197
 10 F.3d 1253 (9th Cir. 1999) (en banc) (per curiam); *see also 389 Orange St. Partners v. Arnold*, 179
 11 F.3d 656, 665 (9th Cir. 1999). Based on *Taylor*, Robinson’s convictions under § 924(c)(1) and
 12 § 924(j)(1) must be vacated. Robinson’s § 924(c)(1) conviction was for carrying a firearm during
 13 a crime of violence—the attempted Hobbs Act robbery—and aiding and abetting such conduct.
 14 Similarly, the § 924(j)(1) conviction was for causing a death by use of a firearm in the course of
 15 the § 924(c)(1) violation. Therefore, if the § 924(c)(1) conviction falls, the § 924(j)(1) conviction
 16 must also fall. Because Robinson’s underlying conviction for attempted Hobbs Act robbery is not
 17 a crime of violence under § 924(c)(3)(A), according to *Taylor*, neither the § 924(c)(1) nor the
 18 § 924(j)(1) count can stand.

19 As to Robinson’s remaining conviction for attempted Hobbs Act robbery, he was
 20 originally sentenced to the maximum of 240 months with 5 years of supervised release. (Doc.
 21 311). Robinson has now served more than that term, having been in custody since 1997.
 22 Accordingly:

- 23 1. Defendant Robinson’s motion for reconsideration (Doc. 450) is **GRANTED**.
- 24 2. Defendant Robinson’s convictions for Counts Eight and Nine are hereby
 25 **VACATED and DISMISSED**.
- 26 3. As agreed by all parties, having served more than the maximum 240 months on
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Count Seven, Defendant Robinson is hereby **RESENTENCED²** to **TIME SERVED and to 60 months supervised release.**

4. Defendant Robinson should be **RELEASED FORTHWITH** to begin the 60-month term of supervised release with the conditions described in the original amended judgment (Doc. 311 at 3–4).

5. Defendant Robinson’s special assessment is reduced to **\$100** pursuant to 18 U.S.C. § 3013 to reflect the single count of conviction.

IT IS SO ORDERED.

Dated: **December 1, 2022**


UNITED STATES DISTRICT JUDGE

² The parties have agreed specifically that there is no need for a new PSR or for a new sentencing hearing. (Docs. 450 at 7, 457 at 3.)